

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-820

April 30, 2002

BANGOR HYDRO-ELECTRIC COMPANY
Request for Approval of Sale of Generation
Assets

ORDER EXTENDING
DEADLINE FOR DIVESTITURE
OF GRAHAM STATION UNITS 4
AND 5

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY

We extend the deadline for Bangor Hydro-Electric Company (BHE or the Company) to divest its Graham Station generating units Nos. 4 and 5 to January 31, 2007.

BACKGROUND AND DECISION

BHE deactivated the Graham units in 1992, although the units remain inside Graham Station in Veazie, Maine. Because BHE previously sold the Graham Station air emission license credits, the Graham units may not be operated at their present site. As generation assets, BHE must plan for and divest the units pursuant to 35-A M.R.S.A. § 3204. BHE's plan to divest the units, described by the Company as the only realistic opportunity to mitigate the stranded costs associated with the units, has been to sell the units to a buyer willing to bear the cost associated with removal and relocation of the units.

By Order dated January 11, 2000 also in this docket, we authorized the sale of BHE's Graham Station units 4 and 5, and certain associated materials and equipment, to I.I.S.A., Inc. of Seabrook, New Hampshire. The closing of the purchase and sale between BHE and I.I.S.A. of the Graham Station units 4 and 5 was delayed because of the illness of the president of I.I.S.A. In a filing dated June 30, 2000, BHE stated that the Company remained contractually committed to sell the units and that at that time, BHE concluded that I. I.S.A. remained the best means to mitigate stranded costs associated with the units. Accordingly, BHE asked for and by order of August 21, 1000, received an extension of time until January 31, 2001 to close the transaction with I.I.S.A.

On January 11, 2001 BHE moved for another extension to divest Graham Station units 4 and 5. BHE stated that the president of I.I.S.A. suffered a stroke and consequently the contract was never executed. BHE stated that, subsequent to the August Order, I.I.S.A. has declined to execute the purchase and sales agreement or otherwise pursue purchasing the Graham units. BHE stated that the Company had an interested buyer, but that the prospective buyer had recently asked for additional information, and therefore BHE would not be able to close a sale by the January 31,

2001 divestiture deadline. By order on January 31, 2001, we granted BHE an extension to January 31, 2002 to divest the Graham units.

On February 4, 2002,¹ BHE moved for another extension to divest the Graham Station units 4 and 5. BHE stated that negotiations with the interested buyer mentioned in the January 31, 2001 Order did not result in a sale and that it is uncertain that the Company will succeed in finding a buyer for the units. I.I.S.A.'s offer to purchase has been the only firm offer for the deactivated units since BHE began attempting to sell the units in 1991. BHE's plan however, is to continue to offer the units for sale until January 31, 2007. Accordingly, BHE asks for an extension of the deadline to divest the units until January 31, 2007.

If BHE has not sold the units by January 31, 2007, BHE asks that it be exempted from divesting the units. BHE adds that it has no plans to operate the Graham Units to generate electricity and has no objection to the Commission including a condition that prohibits BHE from using the Graham units to generate electricity in any order granting an exemption to the divestiture requirement.

By way of responses to examiner data requests, BHE states that it does not incur any O&M expenses associated with Graham Units 4 and 5, and no O&M is reflected in BHE's rates. Moreover, the Asset Sale Gain Account, created from the sale of other generating assets to PPL, was reduced on February 28, 2000 by the then-net book value of the Graham Units. Accordingly, no costs associated with the Graham Units are reflected in current rates.

It appears that BHE's plans to continue to attempt to sell the units until January 31, 2007 constitute the most reasonable means to mitigate stranded costs. We therefore extend the divestiture deadline for the units to January 31, 2007. At this time, we decline to grant BHE's request for an exemption to the requirement to divest the Graham units, if as of January 31, 2007 BHE is unable to find a buyer. We will wait until closer to the January 31, 2007 deadline to decide whether a divestiture exemption is appropriate.

Accordingly, we

ORDER

That the deadline for Bangor Hydro-Electric Company to divest its Graham Station units No. 4 and 5, and certain associated material and equipment, is extended until January 31, 2007.

¹ On January 31, 2002, BHE asked for and received an extension to file a motion for extension of divestiture deadline.

Dated at Augusta, Maine, this 30th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
COMMISSIONER ABSENT: Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.